IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Damien MANDY	Conf. 5475
Application No. 10/537,714	Group 2443
Filed October 19, 2005	Examiner George NEURAUTER

PARKING METER

APPEAL BRIEF

MAY IT PLEASE YOUR HONORS:

1)   **Real Party in Interest**

        The real party in interest in this application is the assignee, Parkeon of Paris, FRANCE.

2)   **Related Appeals and Interferences**

        None.

3)   **Status of Claims**

        Claims 1-9 are pending and the present appeal is taken from the final rejection of each of these claims.

4)   **Status of amendments**

An amendment responsive to the final rejection of the claims on appeal was filed on March 24, 2010 and was entered for purposes of the present appeal.

5)   **Summary of Claimed Subject Matter**

Claims 1 and 5 are the independent claims and are directed to a parking meter (see specification page 1, lines 3-5) and a method of access to a service using a parking meter, respectively (see page 3, lines 18-20).

The parking meter (PK) as defined by claim 1 and as seen by way of example in Figure 1, reproduced below, includes a communication module (ADSL) to access a remote server (SV) via a predetermined communication network (NET) – (see page 4, lines 7-14). The parking meter (PK) also includes a short-range communication module adapted to dialog via a short-range communication channel (WiFi) with a short-range communication module of a remote terminal (HH) – (see page 4, lines 19-24). The parking meter (PK) further includes a communication router adapted to receive information from the remote terminal via the short range communication channel so as to route the received information from the remote terminal to the remote server

via the predetermined communication network and receive information from the remote server via the predetermined communication network and to route information received from the remote server to the remote terminal via the communication channel (see page 4, lines 29-33)[1].
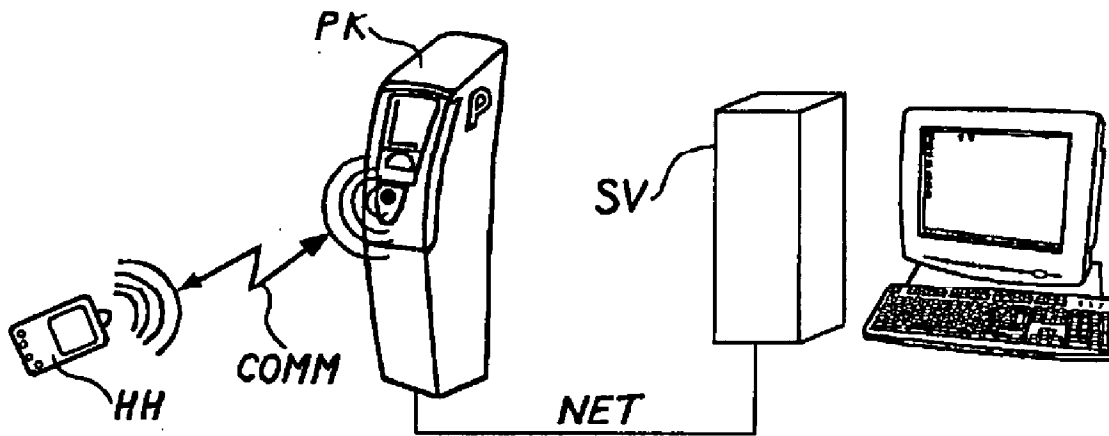
Fig.1

Method claim 5 includes the following features of device claim 1:

a parking meter having a communication module to access a remote server via a predetermined communication network (p. 4, lines 7-14);

a short-range communication module adapted to dialog via a short-range communication channel with a short-range

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[1] Reference to the Figure, specification and reference numerals is by way of example, only.

communication module of a remote terminal (p. 4, lines 19-24); and

a communication router adapted to receive information from the remote terminal via the short range communication channel so as to route the received information from the remote terminal to the remote server via the predetermined communication network and receive information from the remote server via the predetermined communication network and to route information received from the remote server to the remote terminal via the communication channel (p. 4, lines 29-33).

Method claim 5 further requires that:

the communication router routes first information received from the remote terminal by short range communication to the remote server via the communication network, and

the communication router routes second information received from the remote server via the communication network to the remote terminal by short range communication (see page 3, lines 29-33).

6)   **Grounds of Rejection to be Reviewed on Appeal**

1. Whether claims 5 and 7-9 are definite, within the meaning of 35 USC 112, second paragraph.

2. Whether claims 1-5[2] are anticipated under 35 USC 102(e) by BAHAR 7,019,670.

7)   **Arguments**

<ins>Claims 5 and 7-9 are definite</ins>

By the amendment after final rejection of March 24, 2010, claim 5 was rewritten in independent from as a method claim to clarify the statutory category of this claim.

By the amendment after final rejection of March 24, 2010, claim 7 was amended to provide antecedent basis for the recited "the request" by adding the term "request" between "generates a" and "for a file".

By the amendment after final rejection of March 24, 2010, claim 7 was further amended to change "the requested file" to "a requested file" to provide proper antecedent basis for this recitation.

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[2] The final rejection lists claims 1-5, but addresses each of claims 1-9 of the body of the rejection.

These changes are believed to address the 35 USC 112, second paragraph rejection and reversal of that rejection is respectfully requested.

Claims 1-5 are not anticipated by BAHAR

BAHAR discloses with respect to Figure 2, reproduced below, a parking meter 26 having a data receiving element 28 capable of receiving data (e.g. user data) from a user, through wired/or wireless technology such as radiofrequency or infrared data (see col. 7, line 62 to col. 8, line 5), and a data transceiver 33 which transmits and/or receives data to and from parking meter 26, in particular with central computer station 39 or an officer's mobile device 38 (see col. 8, lines 65 to col. 9, line 10 and column 9, lines 57-61).
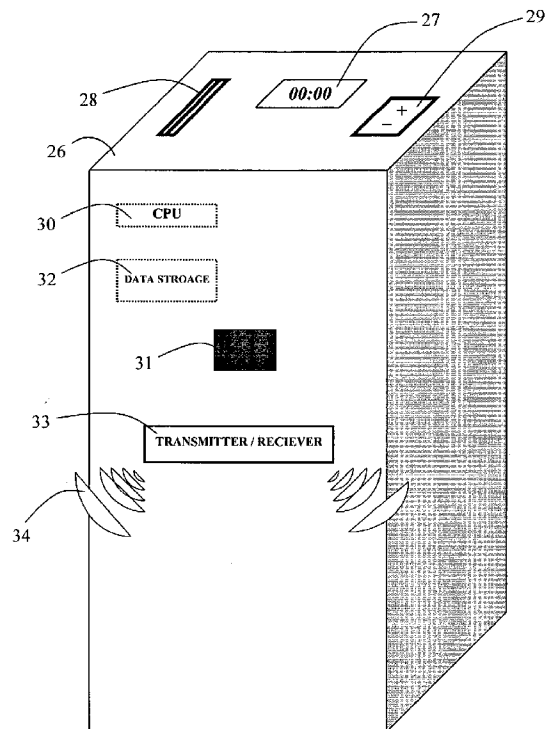
FIG. 2

The parking meter collects the user's data with data pertaining to the parking violation and generates a citation which is transmitted to the central computer station 39 (see col. 3, lines 22 to 28).

BAHAR therefore describes the use of two data transmissions:

- a first data transmission from the user to the parking meter 26 via, for example, slot 28, and

- a second data transmission from the parking meter 26 to the central computer station 39 (see Figure 4) or to the mobile device 38 (see Figure 3).

However, BAHAR does not disclose or suggest the following features of claim 1:

1) a communication router that <u>receives information from the remote terminal</u> via said communication channel <u>and routes that information to the remote server</u> via the communication network, and

2) the communication router <u>receives information from the remote server</u> via the communication network <u>and routes that information to the remote terminal</u> via the communication channel.

More precisely, BAHAR does not disclose communication between the remote terminal (offered as mobile device 38) and the remote server (offered as central station 39) through a communication router.

Rather, as set forth above communication is either between parking meter 26 and central station 39 (as in Figure 4 of BAHAR, reproduced below) <u>or</u> between parking meter 26 and mobile device 38 (as seen in Figure 3 of BAHAR, reproduced below), wherein the communication is denoted by arrow 37.
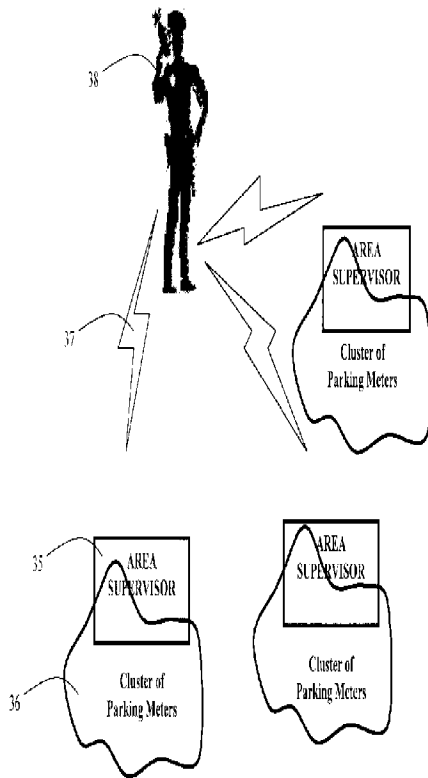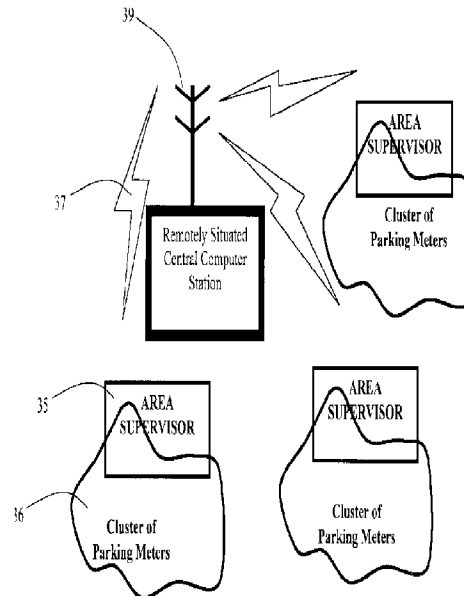
FIG. 3

FIG. 4

Likewise, in BAHAR there is no communication from the central station 39 to the mobile device 38. Indeed, as set forth above, these are two alternative devices that communicate with the parking meter (see column 2, lines 21-27 of BAHAR).

Moreover, claim 1 recites a communication router that routes information (to the remote server from the remote terminal or to the remote terminal from the remote server).

It is well settled that during examination the USPTO must give claims their broadest reasonable interpretation >in light of the specification<.). This means that the words of the claim must be given their plain meaning unless **>the plain meaning is inconsistent with< the specification. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

"Plain meaning" refers to the ordinary and customary meaning given to the term by those of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application." *Phillips v. AWH Corp.*, *>415 F.3d 1303, 1313<, 75 USPQ2d 1321>, 1326< (Fed. Cir. 2005)(*en banc*).

In the present case, one of ordinary skill in the art would understand that a communication router therefore includes a "<u>device</u> that determines the next network point to which to forward a data packet toward its destination, a process known as <u>routing</u>".

One of ordinary skill in the art would further understand that a <u>router is **not** the recipient of the message it routes</u>.

Therefore, the parking meter disclosed in BAHAR does not operate as a communication router and thus, one of

ordinary skill in the art would not equate the parking meter of BAHAR with a communication router for the following reasons.

First, the recipient of the first message (from the user device) is the parking meter (see column 4, lines 64 and 65), not the central computer station. BAHAR does not disclose information sent from the remote terminal that is routed through a communication router in the parking meter and sent to a central computer station.

Second, the user data is processed in the parking meter, meaning that the parking meter operates at the Application Layer (layer seven) of the OSI model, while one of ordinary skill in the art would recognize that a router operates at the Network Layer (layer 3) of the OSI model.

For these reasons, BAHAR does not disclose a parking meter comprising a communication router adapted to receive information from the remote terminal via said communication channel and to route that information to the remote server via the communication network, and adapted to receive information from the remote server via the communication network and to route that information to the remote terminal via the communication channel as required to meet claim 1.

Further, since the recipient of the first message (sent by the user device) is the parking meter, and since the sender of the second message (received by the central computer station) is the parking meter, one of ordinary skill in the art would understand that there is no need to include a communication router in the parking meter of BAHAR. That is, the operation of the parking meter of BAHAR does not require a router and its configuration is even opposed to any routing between the user device and the central computer station. Thus, one of ordinary skill in the art would not understand BAHAR to include a communication router.

For the reasons set forth above, BAHAR does not disclose a communication router. Moreover, even if one were to equate data transceiver 33 of BAHAR with a communication router, data transceiver 33 does not receive information from the offered remote terminal 39 and route that information to the offered remote server 38, and does not receive information from the offered remote server 38 and route that information to the offered remote terminal 39.

Accordingly, BAHAR does not anticipate claim 1 and the claims that depend therefrom.

Claim 5 is an independent method claim that includes all the features of claim 1 and the analysis above as to claim 1 with respect to these features also applies to claim 5.

It is therefore believed to be evident that the rejection of claims 1-9 should be reversed.

Conclusion

From the foregoing discussion it is believed to be apparent that neither of the rejections on appeal merits affirmance but that instead both should be reversed. Such action is accordingly respectfully requested.

The Appeal Brief fee in the amount of $540.00 is being paid online concurrently herewith by credit card.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit and overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. 1.16 or under 37 C.F.R. 1.17.

Respectfully submitted,

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8. Claims Appendix

1.   A parking meter-comprising:

a communication module to access a remote server via a predetermined communication network;

a short-range communication module adapted to dialog via a short-range communication channel with a short-range communication module of a remote terminal; and

a communication router adapted to receive information from the remote terminal via said short range communication channel so as to route said received information from the remote terminal to the remote server via said predetermined communication network and receive information from the remote server via said predetermined communication network and to route information received from said remote server to said remote terminal via said communication channel.

2. The parking meter according to claim 1, wherein said communication module is adapted to access an Internet Protocol communication network.

3. The parking meter according to claim 1 wherein the short-range communication module is at least one of the radio (WiFi or Bluetooth) or infra red (IrDA) type.

4. The system according to claim 7, wherein the remote terminal belongs to the group comprising portable or fixed computers, personal digital assistants.

5. A method of access to a service using a parking meter having a communication module to access a remote server via a predetermined communication network; a short-range communication module adapted to dialog via a short-range communication channel with a short-range communication module of a remote terminal; and a communication router adapted to receive information from the remote terminal via said short range communication channel so as to route said received information from the remote terminal to the remote server via said predetermined communication network and receive information from the remote server via said predetermined communication network and to route information received from said remote server to said remote terminal via said communication channel, said method comprising:

the communication router routing first information received from the remote terminal by short range communication to the remote server via the communication network, and

the communication router routing second information received from the remote server via the communication network to the remote terminal by short range communication.

6. The parking meter according to claim 1, wherein the remote terminal is able to dialog remotely with the remote server via the parking meter.

7. A system comprising:

a parking meter according to claim 1,

a remote server, and

a remote terminal,

wherein the remote terminal generates a request for a file, wherein the remote server generates a response to the request so as to transmit a requested file to the remote terminal, wherein the communication router is intended to route the requested file from the remote server to the remote terminal.

8. The system according to claim 7, wherein the remote terminal belongs to an operation that issues tickets that levy parking fines, and wherein the requested file relates to payment for chargeable parking.

9. The method according to claim 5, wherein the first information comprises a request of a tile relating to payment for chargeable parking to the remote server, and wherein the second information comprises the requested file.

9. Evidence Appendix

None.

10. Related Proceedings Appendix

None.